IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.149 OF 2003

Shri.A.Y.Chaphekar ..Petitioner

Vs.

State of Maharashtra & Anr. ..Respondents

...

Mr.Sachin Dhakephalkar i/b
P.K.Dhakephalkar Advocate for Petitioner
Ms.S.V.Gajare A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 29,2005

P.C.

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The complaint i.e. CC No.I.& R./7/2002 came to be filed by Respondent no.2 Shri.Kishor Beharilal Chabria before the learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai. The learned Magistrate by order dated 6.7.2002 referred the said complaint to N.M.Joshi Marg Police Station under Section 156(3) of Cr.P.C. for investigation. Being

aggrieved by this order, the petitioner has approached this Court.

3. The learned A.P.P. on instructions states that police have investigated into the matter and they have submitted a report to the learned Magistrate, 7th Court, Dadar stating that no offence was made out and that the matter was purely of civil nature. It is further submitted that no arrest has been made in the said case. In view of this position, I do not feel it necessary to quash the order of the learned Magistrate referring the matter under Section 156(3) of Cr.P.C. to the police. In view of the report, the learned Magistrate may take appropriate steps in accordance with law.

4. The learned advocate for the petitioner states that despite the report being filed by the police, he apprehends that the petitioner may be arrested in the said case. In my view, the said apprehension can be taken care of by directing the Investigating Agency to give 96 hours notice to the petitioner prior to his arrest. The learned advocate for the petitioner has stated that he is

not aware of the nature of the complaint as he does not have the copy of the complaint. The learned A.P.P. states that the concerned Police station will furnish a copy of the complaint to the petitioner on the petitioner approaching the concerned Police Station.

5. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]